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**FISCAL IMPACT STATEMENT**

**LS 7258**

**BILL NUMBER:** HB 1238

**NOTE PREPARED:** Jan 8, 2013

**BILL AMENDED:**

**SUBJECT:** Guardianship of Minors.

**FIRST AUTHOR:** Rep. Summers

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill has the following provisions:

- (1) Requires a court to notify the Department of Child Services (DCS) of a hearing regarding the guardianship of a minor if the minor is or was a child in need of services (CHINS).
- (2) Requires the DCS to evaluate a person who is filing a petition to serve as a guardian of a minor if the DCS knows the person has a history of mental health issues or substance abuse.
- (3) Requires a probate or juvenile court to include in its order creating a guardianship of a minor any terms and conditions that a parent must meet in order to seek modification or termination of the guardianship.
- (4) Provides that if the court has knowledge that the parent has a history of mental health issues or substance abuse, the court shall require the DCS to evaluate the parent and report the findings to the court.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** *Summary:* Under the bill, courts will be required to notify the DCS when a child who is the subject of a guardianship proceeding was formerly a CHINS. Additionally, the bill requires the DCS to evaluate guardians in instances where the DCS has knowledge of a petitioner's history of mental health issues or substance abuse. It is not known how many guardianship petitioners have histories of substance abuse and mental health issues. Therefore, the increase in the workload of the DCS is unknown, but expected to be small.

**Background Information:** Currently, when guardianship for a minor is established, that minor's CHINS case

is closed. When a CHINS case is closed, the DCS does not receive guardianship notifications.

The DCS currently performs criminal background checks and home studies for all individuals who petition for guardianship in CHINS cases. The DCS does not provide evaluations for any child once a guardianship has been established by a court.

By requiring the DCS to provide evaluations of guardians in instances where the DCS has knowledge of a petitioner's history of mental health issues or substance abuse, this bill will increase the workload of the DCS to provide the required evaluations. [*Note:* The bill requires the DCS to provide these assessments for the guardianships of both children and incapacitated adults, however the DCS is expected to only have information on petitioners in guardianship cases involving children (and not incapacitated adults).]

The Division of State Court Administration (DSCA) reports there were 7,118 guardianship petitions filed in FY 2011. This number includes guardianship petitions for children as well as incapacitated adults. Further, the DSCA reports they do not track petitions to amend guardianships.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** This bill will increase court workload to notify the DCS of a hearing regarding the guardianship of a minor that was formerly a CHINS. Actual increases are unknown.

**Explanation of Local Revenues:**

**State Agencies Affected:** DCS.

**Local Agencies Affected:** Courts.

**Information Sources:** Brady Brookes, DCS; Leslie Dunn, Division of State Court Administration.

**Fiscal Analyst:** Bill Brumbach, 232-9559.